IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3857 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

CHIMANLAL SOMABHAI PATEL

Appearance:

1. Special Civil Application No. 3857 of 2001

MR SUDHANSHU S PATEL for Petitioner No. 1

MRS NISHA M PARIKH for Respondent No. 1

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/10/2001

ORAL JUDGEMENT

1. Since the matter has already been admitted, with the consent of the parties, the matter is taken up for

final hearing today.

2. The respondent-workman was serving on the post of Conductorin the S.T.Corporation. He was subject to departmental proceedings on the ground that he had issued certain tickets without punching them and, therefore, he committed irregularity in issuance of tickets and he had not issued tickets to certain passengers even though he had collected fare of Rs.23.20Ps. After the enquiry was concluded, the disciplinary authority imposed upon him penalty of reducing his pay from Rs.1,497/- to the original scale of Rs.775/-. It seems that the department took the aforesaid penalty in review and the appellate authority, in Review Case no.8 of 1992, came to the conclusion that looking to the misconduct, the penalty imposed by the Disciplinary Authority is not enough and the respondent employee, ultimately was subjected to the order of dismissal from service.

3. Being aggrieved by the same, the concerned employee raised Industrial Dispute and the said dispute was referred to the Labour Court, Kalol and was numbered as Reference L.C.K..) No.47 of 1995. The Labour Court came to the conclusion that it is not the case of the employer that the concerned employee has misappropriated any amount. However, during the pendency of the Reference, the concerned employee reached the age of superannuation and therefore, the Labour Court passed an order of payment of back wages between 19-10-1994 and 29-2-1996 i.e. the date on which he attained the age of superannuation. Since the concerned employee has already retired, no order of reinstatement was passed. The aforesaid order is challenged by the S.T. Corporation.

4. After hearing the learned Advocates of both the sides, I am of the opinion that since the concerned workman has already retired as back as in 1996 and now since, the respondent-workman is not required to be reinstated in service, the order of the Labour Court can be modified to 50% of the back wages for the intervening period from 19-10-1994 to 29-2-1996, and not 100% as ordered by the Labour Court. This order is passed considering the fact that the concerned employee has already retired five years back. It is also required to be noted that the Disciplinary Authority itself did not think it fit to dismiss the employee from service and passed an order of reduction in the pay scale, which was, of course, reviewed by the Department.

5. In the facts and circumstances of the case, therefore, the order of the Labour Court is modified and

the concerned workman will be entitled to back wages only upto 50% for the intervening period. Since the concerned employee has already retired since long, the Corporation may pay the retiral dues, which he would be entitled to as per the order of the Labour Court on or before 31st December, 2001. Whatever benefits which are required to be given to the employee may also be given by the aforesaid date.

Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar, J)

stanlee-pbm.